

REMARKS

In advance of a first Office Action in this case, wherein an RCE was filed on April 22, 2004, reconsideration and withdrawal of the rejections to this application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance.

Claims 1 and 3-10 are pending. Claim 1 is amended, without prejudice. No new matter is added.

It is submitted that these claims are patentably distinct from the prior art, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The remarks made herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

The Examiner believes that U.S. Patent No. 5,538,736 to Hoffmann et al. renders the instant claims unpatentable under 35 U.S.C. §103(a). The rejection is traversed. The amendments to the claims render the rejection moot.

The instant invention is directed to a flat self-adhering plaster. The plaster has a multi-layer construction and reduced cold flow. The plaster is comprised of a core, wherein the core is the only pharmaceutical or cosmetic active agent area.

Hoffmann, by contrast, teaches away from such an invention by requiring at least two drug reservoirs (*see* col. 3, lines 4-6). Indeed, Hoffmann recites the advantages of having two drug reservoirs in column 3, lines 17-26:

Due to the fact that, according to the invention, the active substance reservoir is partly detachable whereby the part of the active substance reservoir which is not to be detached has a greater adhesion to the skin than to the back layer, after removing a



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predetermined plaster part with the active substance reservoir part adhering thereto, there is left behind a predetermined active substance reservoir part on the skin, which can e.g. be alone removed following the desired application period. Advantageously the active substance reservoir of the inventive plaster is in two parts.

Further, Hoffmann believes that even three drug reservoirs are advantageous (*see* col. 3, lines 27-30). Thus, a skilled artisan reading Hoffman would be motivated away from practicing the instant invention, wherein the core is the only pharmaceutical or cosmetic active agent area.

Consequently, reconsideration and withdrawal of the Section 103(a) rejection is believed to be in order and such actions are respectfully requested.

CONCLUSION

By this submission, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are all earnestly solicited.

Respectfully submitted,
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